

REMARKS

Favorable reconsideration is respectfully requested in light of the following comments. No amendments are presented herein, and thus claims 21-35 remain pending.

Claims 21, 22 and 24-31 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Engelson et al., U.S. Patent No. 5,972,019, in view of Ginsburg, U.S. Patent No. 5,011,488. Claims 21-31 stand rejected under 35 U.S.C. §103(a) as unpatentable over Schmaltz et al., U.S. Patent No. 5,449,372, in view of Ginsburg, U.S. Patent No. 5,011,488, and further in view of Crittenden et al., U.S. Patent No. 4,719,924. Claims 32-35 under 35 U.S.C. §103(a) as unpatentable over Engelson et al., U.S. Patent No. 5,972,019, in view of Ginsburg, U.S. Patent No. 5,011,488, and further in view of Lefebvre, U.S. Patent No. 5,421,832. Applicants respectfully traverse each and every one of these rejections.

There is a common thread running through each of these rejections. In each rejection, the Examiner has recognized that the other references do not disclose a distal cage and a proximal cage, and therefore is relying upon Ginsburg to suggest that it would be obvious to use both a distal cage and a proximal cage in the devices allegedly disclosed by the other references. The Examiner has asserted that “Ginsburg discloses the use of a proximal and distal element (balloon) in order to remove the thrombotic material without surgical intervention” and therefore it would be obvious to include a proximal cage and a distal cage in the devices allegedly disclosed by the other references.

Ginsburg, however, appears to describe using an inflatable cone-shaped balloon to pull debris towards a suction tube. A balloon and a suction tube are not the same as a proximal cage and a distal cage. A balloon and a suction tube do not suggest a proximal cage and a distal cage. One of skill in the art would not interpret Ginsburg as describing or suggesting the use of a proximal cage and a distal cage. Rather, one of skill in the art would interpret Ginsburg as teaching the use of an inflatable balloon that can be moved proximally to sweep vascular debris into a suction tube. Nothing more.

In fact, the only appropriate and relevant suggestion or teaching of including both a proximal cage and a distal cage is found within the instant specification. It is axiomatic that reconstructive hindsight is improper. Therefore, each rejection relying on such a

reconstructive interpretation of Ginsburg is improper and should be withdrawn. Favorable reconsideration is respectfully requested.

Reexamination and reconsideration are respectfully requested. It is submitted that all pending claims are currently in condition for allowance. Issuance of a Notice of Allowance in due course is anticipated. If a telephone conference might be of assistance, please contact the undersigned attorney at 612.677.9050.

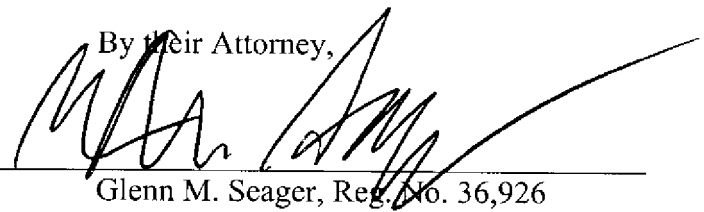
Respectfully submitted,

GENE SAMSON ET AL.

By their Attorney,

Date:

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